

## **Attorney General's Informal Interpretation of Fireworks Discharge Restriction for Cities and Counties**

### **UCA 11-3-8    Conflicting local ordinances prohibited.**

A county, city, or town may not adopt an ordinance or regulation in conflict with Sections 53-7-220 through 53-7-225.

### **UCA 53-7-220 through 53-7-225**

### **UCA 11-7-1 (1) Cooperation with other governmental units**

The governing body of every incorporated municipality and the board of commissioners of every county shall provide adequate fire protection within their own territorial limits and shall cooperate with all contiguous counties, municipal corporations, private corporations, fire districts, or federal governmental agencies to maintain adequate fire protection within their territorial limits.

### **UCA 17-50-302(1)(b)    General county powers**

A county may provide services, exercise powers, and perform functions that are reasonably related to the safety, health, morals, and welfare of their inhabitants, except as limited or prohibited by statute.

### **Assistant Attorney General Rick Wyss interpretation.**

County officials have authority to limit locations where fireworks may be discharged in the interest of public safety. This is not contrary to 11-3-8 because such restrictions do not conflict with 53-7-225. While 53-7-225 does allow Class C fireworks to be discharged on certain days, the statute does not address locations for discharge. If a county or city, in the interest of fire protection and public safety, chose to limit discharge to certain locations within the city or county, such action does not contravene 53-7-225. If someone tried to read 53-7-225 as saying that no restriction could be placed on locations of discharge, then you would have to allow discharge in the middle of downtown or on the courthouse steps. That was surely not the intent of the statute. Health, safety and welfare provisions, such as the one found at 17-50-302, have been construed very broadly by the courts. Unless there are specific statutes to the contrary, local jurisdictions have very broad authority to protect public safety. Since no statutory provision requires that fireworks be allowed to be discharge at any location within city or county boundaries, restrictions could be placed on discharge locations in the interest of public safety.

I believe a county would have difficulty completely banning the discharge of Class C fireworks. Such a provision would arguably conflict with the statute and it would likely be found that the county could find and designate locations where discharge could be conducted safely.

***For more information contact State Fire Marshal Gary Wise ([gwise@utah.gov](mailto:gwise@utah.gov)) or Chief Deputy Brent Halladay ([bhallada@utah.gov](mailto:bhallada@utah.gov)) at (801) 284-6350.***